REMARKS

In response to the Office Action dated February 11, 2004, which sets forth a restriction requirement, applicants elect, with traverse, the invention of group I (i.e., claims 1-5 and 9-15) for further prosecution. Applicants respectfully submit that the restriction requirement is improper for the reasons set forth herein and, therefore, request withdrawal of the restriction requirement.

The Office Action sets forth a six-way restriction requirement. The Manual of Patent Examining Procedure (M.P.E.P.) recites the requirements for a proper restriction requirement. In particular, the M.P.E.P. states that there are two criteria for proper restriction between patentably distinct inventions: (a) the inventions must be independent, *and* (b) there must be a serious burden on the examiner in the absence of restriction. See M.P.E.P. § 803. These are two separate criteria that must be satisfied to support a proper restriction requirement. The fact that both criteria must be satisfied is made all the more clear by the following statement in the M.P.E.P.: "If the search and examination of an entire application can be made without serious burden, the examiner *must* examine it on the merits, even though it includes claims to independent or distinct inventions." M.P.E.P. § 803 (emphasis added). Thus, if the subject matter of the pending claims is such that there would be no serious burden on the examiner to search and examine all of the pending claims at the same time, the examiner is to do so, even if the pending claims are drawn to independent or distinct inventions.

With respect to the subject patent application and the outstanding restriction requirement, groups I, II and III refer to pending claims 1-17, which pertain to a composition comprising an IL-2R associated polypeptide reactive with antibodies produced by the hybridoma PTA-82, antibodies produced by the hybridoma PTA-82, methods of purifying the IL-2R associated polypeptide using an antibody, and methods of detecting the IL-2R associated polypeptide using an antibody produced by the hybridoma PTA-82. Groups IV-VI refer to claims 18-21, which pertain to methods of treating a mammal having an autoimmune disease, receiving an organ transplantation, and receiving immunotherapy, respectively, using an antibody produced by the hybridoma PTA-82.

Accordingly, the claims of groups I and II (drawn to the IL-2R associated polypeptide and the antibodies produced by the hybridoma PTA-82), as well as the claims of group III

(drawn to a method for detecting IL-2R associated polypeptide using an antibody) have quite similar subject matter directed to related antigens and antibodies, and overlap to such an extent that there will be no serious burden on the Examiner to search and examine all of the pending claims of groups I-III at the same time.

Furthermore, the claims of groups IV-VI pertain to using the antibody produced by hybridoma PTA-82 to treat mammals with immunological conditions. The claims of groups IV-VI (i.e. claims 18-21) relate to the claims of group II, specifically, with respect to the antibody at use. This relationship illustrates that there would be no serious burden on the Examiner to search and examine the pending claims of groups IV-VI together, and at the same time as searching and examining the claims of groups I-III.

Accordingly, applicants respectfully request withdrawal of the restriction requirement, in whole or in part, such that at least pending claims 1-17 (groups I, II, and III) are considered together, if not also pending claims 18-21 (groups IV, V, and VI). If, in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned attorney.

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